

REMARKS

In the Office Action mailed from the United States Patent and Trademark Office on February 17, 2004, the Examiner rejected claims 1-3, 5, 7-18 and 21-24 under 35 U.S.C. 103(a) as being unpatentable over Fano (United States Patent No. 6,317,718, hereinafter referred to as "Fano") in view of Pare Jr. et al (United States Patent No. 6,269,348, hereinafter referred to as "Pare"), Tracy et al (United States Patent No. 6,199,753, hereinafter referred to as "Tracy") and Robins ("Portable POS", Stores, v74n10, pp. 43-46, hereinafter referred to as "Robins"). The Examiner also rejected claims 1-3, 5, 7-18 and 21-24 under 35 U.S.C. 103 (a) as being unpatentable over Treyz et al. (United States Patent No. 6,587,835, hereinafter referred to as "Trayz") in view of Pare. Accordingly, Applicant respectfully provides the following:

Applicant respectfully submits that the claim set as provided herein is not made obvious by the cited references. The standard for a Section 103 rejection is set forth in M.P.E.P 706.02(j), which provides:

To establish a *prima facie* case of obviousness, three basic criteria must be met. First there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the references or combine reference teachings. Second, there must be a reasonable expectation of success. Finally, **the prior art reference (or references when combined) must teach or suggest all the claim limitations.** The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). (Emphasis added).

Applicant respectfully submits that the references cited by the Examiner do not teach or suggest the limitations claimed in the present invention. In particular, independent claims 25, 28, 31 and 35 as provided herein include limitations relating to automatically receiving product offers in a wireless purchasing device (WPD) via short range communication means and receiving credit authorization by a long range communication at the WPD prior to the purchase

of the product. The limitations as provide in the current claim set are supported by the disclosure as originally filed. And, none of the references cited by the Examiner, alone or in combination, teaches or suggests such limitations.

Accordingly, Applicant respectfully submits that for at least the reasons provided herein, the references cited by the Examiner, alone or in combination, do not teach or suggest all the claim limitations of the independent claims. And, since the references cited by the Examiner do not teach or suggest each and every limitation of the independent claims, Applicant respectfully submits that the prior art references do not make obvious independent claims 25, 28, 31 and 35 as provided herein. Further, since the prior art references do not make obvious independent claims 25, 28, 31 and 35, Applicant respectfully submits that the prior art references cited by the Examiner do not make obvious the corresponding dependent claims 26-27, 29-30, 32-34, 36-44, which depend from independent claims 25, 28, 31 and 35.

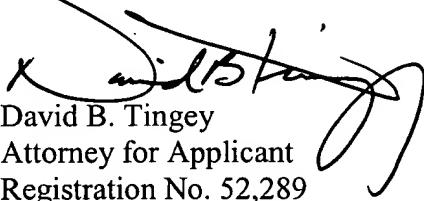
Thus, Applicant respectfully submits that for at least the reasons provided herein, the claim set as provided herein overcomes all rejections made by the Examiner in the Office Action.

CONCLUSION

Applicant submits that the amendments made herein do not add new matter and that the claims are now in condition for allowance. Accordingly, Applicant requests favorable reconsideration. If the Examiner has any questions or concerns regarding this communication, the Examiner is invited to call the undersigned.

DATED this 17th day of May 2004.

Respectfully submitted,


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